

records covering the organization and reorganization from those dates to the present.

I have done a great deal of work on the history of our association and if you have space to spare some time, I would like to submit something for your approval and publication.

Dr. Henry Gibbons was president in 1860 and Dr. Thomas H. Pinkerton in 1869, both later serving as presidents of the California Medical Association.

426 Seventeenth Street.

Cordially yours,

FRANK R. MAKINSON, M. D.

Concerning mussel quarantine.

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC HEALTH
SACRAMENTO

Subject: Mussel quarantine order.

To Health Officers:

A quarantine of all mussels from the ocean shore of California from the southern boundary of Ventura County north to the California-Oregon boundary, with the exception of the Bay of San Francisco, is hereby established. All health officers and food inspectors are hereby instructed, until further notice, to enforce the provisions of this quarantine and to prohibit the taking, sale, or offering for sale, mussels gathered in the district specified.

Said action is taken for the preservation of the public health.

W. M. DICKIE, M. D.

Director of Public Health.

Effective May 19, 1936.

SPECIAL ARTICLES

CALIFORNIA SUPREME COURT'S OPINION ON THE GIVING OF ANESTHETICS BY NURSES*

L. A. No. 15162. In Bank. May 18, 1936

William V. Chalmers-Francis, William Dewey Wightman, George P. Waller, Jr., and Anesthesia Section of the Los Angeles County Medical Association (a Corporation), Plaintiffs; William V. Chalmers-Francis and George P. Waller, Jr., Plaintiffs and Appellants, vs. Dagmar A. Nelson and St. Vincent's Hospital (a Corporation), Defendants and Respondents.

Los Angeles County—Allen B. Campbell, Judge.

For Appellants—Le Roy Anderson, Frank L. Kostlan, Hartley F. Peart; Howard Hassard, of Counsel.

For Respondents—Mott, Vallee & Grant; John G. Mott, Paul Vallee.

Amicus Curiae for National Association of Nurse Anesthetists—Kenneth H. Gould.

Two practicing physicians and surgeons, on behalf of themselves and all other doctors, brought this injunction proceeding to restrain the defendant Nelson, a licensed and registered nurse employed by the defendant hospital, from administering general anesthetics in connection with operations. Such practice by the defendant is asserted to constitute the illegal practice of medicine, in violation of the Medical Practice Act. Judgment went for the defendants, and plaintiffs have appealed.

Appellants' arguments are directed to the proposition that defendants are illegally practicing medicine. Respondents contend that the Medical Practice Act is a penal statute, the violation of which will not be enjoined in the absence of a nuisance resulting therefrom. They cite and largely rely upon the recent case of *People vs. Steele*, 4 Cal. App. (2d) 206, 40 Pac. (2d) 959, 41 Pac. (2d) 946 (hearing denied in this court), in which it was held that a mere violation of the Medical Practice Act does not constitute a nuisance warranting the issuance of an injunction in the absence of some showing that such asserted illegal practice of medicine is so conducted and carried on as to be injurious to public health, and therefore a nuisance. They overlook, however, the opinion of the District Court filed in denying a rehearing in the case, wherein that court, in distinguishing certain cases cited

on petition for rehearing, declared that "In those cases, holders of licenses to practice a profession were allowed to enjoin unlicensed defendants from practicing the same profession in competition with them. The cases are not in point on the question of the right of the state to enjoin such unlicensed practice." Appellants claim this language would seem to warrant the present type of action. Whether this be so or not is immaterial in this case. The judgment must be affirmed on the merits of the question at issue.

The findings, which are amply supported by the testimony in this case, show conclusively that everything which was done by the nurse, Dagmar A. Nelson, in the present instance, and by nurses generally, in the administration of anesthetics, was and is done under the immediate direction and supervision of the operating surgeon and his assistants. Such method seems to be the uniform practice in operating rooms. There was much testimony as to the recognized practice of permitting nurses to administer anesthetics and hypodermics. One of the plaintiffs' witnesses testified to what seems to be the established and uniformly accepted practice and procedure followed by surgeons and nurses, and that is that it is not diagnosing nor prescribing by the nurses within the meaning of the Medical Practice Act. We are led further to accept this practice and procedure as established when we consider the evidence of the many surgeons who supported the contention of the defendant nurse, and whose qualifications to testify concerning the practice of medicine in this community and elsewhere were established beyond dispute. That such practice is in accord with the generally accepted rule is borne out by the decided cases. (*Frank vs. South*, 175 Ky. 416, 194 S. W. 375; *Underwood vs. Scott*, 43 Kan. 714, 23 Pac. 942.) While these two cases construe provisions of statute law specifically relating to the practices and duties of registered nurses, they are in agreement with the definitely established rule relating to the subject. (*Frank vs. South*, supra; *In re Carpenter's Estate*, 196 Mich. 561, 162 N. W. 963.)

Aside from the proposition that nurses in the surgery during the preparation for and progress of an operation are not diagnosing or prescribing within the meaning of the Medical Practice Act, it is the legally established rule that they are but carrying out the orders of the physicians to whose authority they are subject. The surgeon has the power, and therefore the duty, to direct the nurse and her actions during the operation. (*Armstrong vs. Wallace*, 8 Cal. App. [2d] 429, 439, 47 Pac. [2d] 740; *Schloendorff vs. Society of New York Hospital*, 211 N. Y. 125, 105 N. E. 92.)

The judgment is affirmed.

WASTE, C. J.

We concur:

CONREY, J.

CURTIS, J.

LANGDON, J.

THOMPSON, J.

SAN DIEGO PRESS COMMENTS ON THE C. M. A. 1936 ANNUAL SESSION*

(From the San Diego Evening Tribune, May 25, 1936)

URGES WAR ON MEDICAL CONTROL BY STATE

Organized medicine was warned by Dr. Robert A. Peers of Colfax, California, to "wake up and be on its toes to protect the future of the profession against isms that threaten to undermine the splendid service built up by physicians and surgeons of the country." Peers' address, opening the formal sessions of the sixty-fifth annual convention of the California Medical Association today at Hotel Del Coronado, was heard by more than two thousand members of state medical societies.

"We are now confronted with a menacing situation—an attempt to regiment this great profession by having the government take control of the practice of medicine," said Peers. "Thinking men in and out of our profession believe this to be a grave mistake. We are just beginning to take the offensive, with an ever-growing public opinion supporting us.

"It is not enough for us to be just good physicians, good citizens, or merely observe our civic obligations in matters of public health. We must maintain eternal vigilance to

* Official minutes of the House of Delegates and Council meetings of the Coronado annual session will appear in the July issue.

* See also editorial comment on page 461.